

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

Mail Processing Network Rationalization
Service Changes, 2012

Docket No. N2012-1

AMERICAN POSTAL WORKERS UNION, AFL-CIO,
REPLY TO USPS ANSWER IN OPPOSITION TO MOTION TO COMPEL A MORE
RESPONSIVE ANSWER TO APWU/USPS-T5-6(b)
(April 4, 2012)

On March 9, 2012, the American Postal Workers Union, AFL-CIO (APWU) filed a Motion to Compel a More Responsive Answer to APWU/USPS-T5-6(b) ("Motion to Compel"). On March 13, 2012, the Postal Service filed USPS Answer in Opposition to APWU Motion to Compel a More Responsive Answer to APWU/USPS-T5-6(b) ("Answer in Opposition" or "Answer"). In its Answer in Opposition the Postal Service asserts that APWU's Motion to Compel should be denied because "[t]he information sought by the APWU in its motion to compel is not relevant to this docket, and is not necessary for the purposes described in the APWU Motion; thus, requiring the Postal Service to provide an additional response would impose an undue burden on the Postal Service."¹

The Postal Service did not object interrogatory APWU/USPS-T5-6(b). Consequently, APWU has not had the opportunity to address the Postal Service arguments regarding relevance and undue burden raised for the first time in its Answer in Opposition. Furthermore, during the March 20th-23rd, 2012 hearings on the Postal Service's direct case certain information previously unknown to the APWU was revealed by USPS Witness Bratta (USPS-T-5) that contradicts the Postal Service's assertions in its Answer regarding the burden required to provide a more responsive answer. At this time, APWU through the undersigned counsel, raised this issue with the Commission orally and sought leave to file a reply to the Postal Service Answer. The Presiding Officer

¹ USPS Answer in Opposition to APWU Motion to Compel a More Responsive Answer to APWU/USPS-T5-6(b) at p. 1 (March 13, 2012)

granted this request and directed the APWU to file a written reply.² In accordance with the Presiding Officer's bench ruling, the APWU hereby respectfully submits this Reply in response to USPS's arguments against providing a more responsive answer to APWU/USPS-T5(6)(b).

The Postal Service Arguments in Opposition are Procedurally Flawed and Substantively without Merit

The Postal Service Answer in Opposition is essentially an objection to APWU's interrogatory on the basis of relevance and undue burden. Under Rule 26(c) of the Commission's Rules of Practice and Procedure objections to interrogatories are required to be filed within 10 days of the date the discovery request was filed. The Postal Service did not raised a timely objection to APWU/USPS-T5-6(b), therefore, it should not be allowed to circumvent the procedural rules and file an objection in the form of an answer that is also not procedurally recognized.³

Furthermore, even if the arguments raised by the Postal Service in its Answer in Opposition were not procedurally flawed, they are completely without merit. As explained more fully below, the Postal Service assertion that the requested information is not relevant to the Commission's inquiry is unreasoned and its claim of undue burden is not credible.

The Information Requested is Plainly Relevant

In its Answer in Opposition, the Postal Service asserts that the information sought by APWU/USPS-T5-6(b) is not relevant to this case claiming that the APWU has confused this proceeding "with the pre-PAEA rate proceedings, where information about postal costs was relevant to the revenue requirement testimony." Not only is this assertion demonstrably untrue, it evidences a fundamental misunderstanding of the Commission's review under Section 3661 which should not be credited.

² TR. 4/975.

³ As stated in our Motion to Compel, Rule 26(d) makes no provision for an answer to a motion to compel when no objections have been filed.

The Postal Service proposes in this docket unprecedented changes to postal services. USPS Witness Williams describes the expected revisions to service standards noting that

[t]he most significant revisions would eliminate the expectation of overnight service for significant portions of First-Class Mail and Periodicals and, for each of these classes, modify the two-day range to include pairs that are currently overnight and enlarge the three-day delivery range. These revisions would allow for a significant consolidation of the Postal Service's processing and transportation networks. This would result in an infrastructure that better matches current and projected mail volumes and would result in significant cost savings.⁴

The mail processing infrastructure will be impacted by these changes by reducing the number of processing facilities that will remain in the new network. The Postal Service asserts that it will receive large savings from reducing its inventory of buildings and equipment. Specifically, Witness Smith testifies the total savings related to the reduction in mail processing equipment is \$461.9million.⁵ Witness Neri states that "[t]he consolidation of facilities and elimination of older equipment would significantly reduce the square footage used by mail processing facilities nationwide. Also, there would be a significant reduction in the on-hand inventory of equipment spare parts."⁶ Although the Postal Service justifies the resulting severe reduction in postal services largely on its estimated cost savings and claims that the changes proposed in this case will help the Postal Service achieve financial stability, it appears that many of the Postal Service estimated cost savings are based on unrealistic assumptions. For example, with regard to the savings projected from the elimination of excess mail processing equipment and buildings, the Postal Service assumes a best case scenario where the Postal Service is able to effortlessly and immediately eliminate excess buildings and equipment without incurring any costs.

In order to assess whether the Postal Service savings and cost projections are sound and possible to achieve in a realistic set of circumstances, APWU has sought information about what has happened in the past when the Postal Service closed P&DCs. What we have learned so far is that of the 17 buildings related to the P&DCs that have

⁴ Direct Testimony of USPS Witness David Williams (USPS-T-1) at 1 (December 5, 2011).

⁵ Direct Testimony of USPS Witness Marc Smith (USPS-T-9) at 16 (December 5, 2011).

⁶ Direct Testimony of USPS Witness Frank Neri (USPS-T-4) at 24 (errata filed March 5, 2012).

closed since 2008; only one building has been sold. The Postal Service claims that its proposal will decrease spare parts and a reduction in necessary square footage nationwide, yet it has provided no indication of its ability to actually get rid of additional square footage. Because of the Postal Service's refusal to provide a complete answer to APWU/USPS-T5-6(b) it is unknown how easily and cheaply the Postal Service has been able to relocate/eliminate excess equipment, but our expectation is that it is not nearly as easy nor as cheap as the Postal Service would have us all pretend. This clearly has bearing on the anticipated ability of the Postal Service to achieve its costs savings related to streamlining its mail processing facilities. If the Postal Service is still holding on to the majority of its mail processing equipment from P&DCs closed since 2008 and still paying costs related to their storage and maintenance, this is directly relevant to the Postal Service's claims in this case – if the Postal Service cannot get rid of the costs associated with the equipment at only 17 facilities, it calls into question the Postal Services' ability to immediately eliminate equipment at over 200 facilities. The likelihood of the projected cost savings from the elimination of P&DCs as proposed in this docket actually materializing is clearly a relevant inquiry.

Furthermore, though the Postal Service claims that costs are not a relevant inquiry for the Commission in this docket, postal costs are themselves policies to be reviewed under Section 3661. For example, Section 3691(c)(6) requires that when determining to change service standards the Postal Service take into account “the current and projected future costs of serving Postal Service customers.” Section 101 of Title 39 details policies relating to the provision of efficient services and ensuring that the costs of “establishing and maintaining the Postal Service” are not apportioned to impair the value of the services rendered to the public. Moreover, nothing in Title 39 permits the Postal Service to cut services arbitrarily; the reduction in service must be balanced against the resultant savings and other policies in the Act. The record in this case to date has given APWU great cause to believe that the changes in the nature of postal services proposed in this docket do not comply with all of the policies of Title 39. The information requested in APWU/USPS-T5-6(b) is relevant to this inquiry because it speaks directly to the estimated cost reductions and projected savings offered by the Postal Service to justify the proposed reduction in service. Therefore, the estimated cost reductions resulting from the

current proposal is clearly a relevant policy consideration, the information sought by APWU strives to illuminate the reasonableness of the Postal Service estimates.

The Postal Service Claim of Undue Burden is Not Persuasive.

In its Answer in Opposition, USPS claims that it would suffer an undue burden if it were required to identify what happened to the equipment at the 17 P&DCs that have been discontinued since 2008. The Postal Service submits that it “does not maintain a centralized database that tracks the equipment associated with each closed mail processing facility,” therefore, requiring the Postal Service to provide a detailed account of what happened to the equipment at each closed facility would cause it to suffer an undue burden.⁷ However, this assertion is belied by the oral testimony of Postal Service witness, Dominic L. Bratta.

During oral cross examination on Thursday, March 22, 2012, Mr. Bratta testified that the computerized maintenance management system called electronic Maintenance Activity Reporting Scheduling System (“eMARS”) is a centralized database accessible by Headquarters personnel, including Mr. Bratta. This database contains information on all mail processing equipment, including the location of each piece of equipment.⁸ In interrogatory APWU/USPS-T5-6(b), APWU sought in relevant part a detailed accounting of what happened to the equipment at each P&DC closed since 2008. According to Mr. Bratta this is information that should be included in the eMARS system and readily available to him. Therefore, it is not clear why the Postal Service would have to undertake the burdensome efforts described in its Answer in Opposition.

To the extent that eMARS does not include updated details of what happened to each piece of equipment at each of the closed P&DCs, it appears from Mr. Bratta’s oral testimony that any burden created in locating this information is due to the Postal Service’s failure to enforce its own requirements for keeping the eMARS equipment list up to date. Specifically, Mr. Bratta testified that the movement of a piece of equipment may not be noted in the eMARS because “the individual site has not made the appropriate

⁷ USPS Answer in Opposition at 4.

⁸ TR. 4/971.

inputs to change that.”⁹ When asked during cross examination if it was a requirement to update the eMARS system when changes happened to the mail processing equipment, Mr. Bratta responded “[w]e have certain guidelines, and people follow the guidelines. There are other people that may not follow the guidelines.”¹⁰ The Postal Service’s lackadaisical attitude towards the tracking of its equipment is worrying and should not serve as the basis for its claim of undue burden. If the information is not easy to locate as the result of the Postal Service’s own failure to enforce its requirements for keeping the eMARS equipment lists up to date, then the Postal Service should have to bear the burden of production. To do otherwise would shift the burden to the parties by denying them highly relevant information that directly questions many of the Postal Service assumptions underlying its cost saving estimates; assumptions which are at the heart of the Postal Service rationale in support of the changes requested in this docket.

Furthermore, even if an up-to-date account of all of the equipment at issue in APWU/USPS-T5-6(b) is legitimately not readily available, accounting for the equipment at only 17 facilities should not be overly burdensome. Regardless, the Postal Service should want to know what has happened to its equipment and should be more than willing to conduct the necessary investigation to answer this question. Given the clear relevance of the requested information as explained in our Motion to Compel and further detailed above, the ease of which it should be available, along with the operational need for this information, apparent from the existence and purpose of eMARS, the Postal Service should be compelled to immediately provide an explanation of what has happened to the equipment at each of the 17 P&DCs that have closed since 2008.

⁹ TR. 4/972.

¹⁰ TR. 4/973.

Conclusion

For the foregoing reasons, the Commission should promptly compel the Postal Service to immediately provide a more responsive answer to APWU/USPS-T5-6(b) as detailed above.

Respectfully submitted,

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